

**MINUTES
of the
THIRD MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 13-15, 2007
Alamo Chapter, New Mexico
Pueblo of Acoma, New Mexico
Tohajiilee Chapter, New Mexico**

The third meeting of the Indian Affairs Committee (IAC) for the 2007 interim was called to order by Senator John Pinto, co-chair, at 10:50 a.m. in the chapter house of the Alamo Chapter of the Navajo Nation.

Present

Rep. James Roger Madalena, Co-Chair
Sen. John Pinto, Co-Chair
Sen. Rod Adair
Rep. Ray Begaye (8/14, 8/15)
Sen. Dianna J. Duran
Rep. Justine Fox-Young (8/15)
Sen. Lynda M. Lovejoy
Rep. Patricia A. Lundstrom (8/13, 8/14)
Rep. John Pena (8/13, 8/14)
Sen. Lidio G. Rainaldi (8/14)
Sen. Nancy Rodriguez
Rep. Gloria C. Vaughn (8/14, 8/15)

Advisory Members

Rep. Ernest H. Chavez
Sen. Richard C. Martinez
Rep. Debbie A. Rodella (8/14)
Rep. Nick L. Salazar (8/14, 8/15)
Sen. David Ulibarri (8/13, 8/14)

Absent

Rep. Manuel G. Herrera
Sen. John C. Ryan
Rep. W. C. "Dub" Williams

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Rep. Ben Lujan
Sen. William E. Sharer

Also Present

Rep. Don L. Tripp (8/13)

(Attendance dates are noted for those members not present the entire meeting.)

Staff

Chase Van Gorder
Jennie Lusk
Larry Matlock

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Monday, August 13 — Alamo Chapter, Navajo Nation

Chapter President Buddy Mexicano gave an introduction, after which committee members, staff and the audience introduced themselves.

Alamo Chapter, Navajo Nation — Status Update

Chapter President Mexicano addressed the committee concerning several items of interest to the Alamo Chapter. First, the chapter would like to see the remaining 16 miles of Navajo Route 55 completed to the north to connect with State Route 6 and Interstate 40. At the present, chapter residents must travel a much longer route through Magdalena and Socorro to get to Albuquerque. The existing senior center is due to be demolished due to its physical condition and \$300,000 in capital appropriations for a new senior center have reverted. A delegation from the chapter will be going to Window Rock in an effort to get the funding restored. Approximately \$1.5 million is needed for a new senior center. The chapter needs a store and a groundbreaking is scheduled within the next six months. Finally, the chapter needs \$600,000 to improve its existing lagoon system.

Following extensive discussion among committee members, chapter representatives and members of the audience regarding the history of Navajo Route 55 and its present condition, Senator Ulibarri moved that the committee write a letter to Congressman Steve Pearce, with copies to the Bureau of Indian Affairs (BIA) and Socorro and Valencia county commissioners, expressing the committee's support for the repair and extension of Navajo Route 55 to State Route 6 and Interstate 40. The motion was seconded by Representative Lundstrom and passed without opposition. Frank Chee Willetto of Pueblo Pintado addressed the committee regarding problems with a bridge on Navajo Route 46 that washed out 10 to 12 years ago. It was supposed to have been replaced within four years but it still has not been fixed. Although all signatures for the right of way have been obtained, there is no funding for the bridge.

Socorro County Commissioner Stanley Herrera listed other needs of the community, including the senior center, funds for emergency coordination relating to homeland security, an indoor rodeo ring and convention center to keep kids off the street and away from drugs, a fire station, a community library, police protection, a dump truck and other road maintenance equipment, economic development and scholarship assistance for students.

Tribal Roads Workshop

Mr. Van Gorder advised the committee that the workshop had been scheduled as a departure from the normal format of the committee to permit committee members and representatives from federal, state and tribal transportation agencies to discuss the problems of constructing and maintaining roads in rural tribal areas and to brainstorm about ways in which the state might assist in resolving such problems other than providing funds for road projects.

The New Mexico Department of Transportation (DOT) was represented by Max Valerio, chief engineer, Germaine Chappelle, general counsel, Larry Maynard, District 6 engineer, Alvin Dominguez, District 1 engineer, and Ron Shutiva, tribal liaison. Mr. Valerio noted that the department's biggest problem is funding. Approximately 85% of the department's funds come from the federal government and the DOT has been advised that federal funding will actually decrease in the coming year. The state's 15% share is not adequate to take care of all of the state's transportation needs, so the department is being forced to reprioritize what needs to be done. The department must also deal with other governmental entities at the federal, regional and local levels, each of which have its own system of funding road projects. Mr. Dominguez addressed the status of State Route 169 running from Magdalena to Alamo. It is a typical rural secondary road that is in need of some repair. In a period of reduced funding, the challenge is how to stretch maintenance dollars and work with other entities. Mr. Valerio noted difficulties encountered in getting environmental clearances for fences. Ms. Chappelle noted that in regards to projects involving tribal roads, the issue of tribal sovereignty is a challenge and must be dealt with on a government-to-government basis. There is a need to be able to streamline that process. Mr. Maynard noted that the cost of maintenance for rural roads is higher than for urban roads due to the cost on mobilizing workers and equipment. One estimate is that new rural roads cost \$1 million per mile. In District 6, Interstate 40 takes up the majority of funds with all other projects being prioritized after the interstate. Last year, the district spent about 11% on tribal secondary roads that constitute about 8% of the roads in the district. Mr. Maynard explained what entities would have responsibility for completing the construction of Navajo Route 55. Mr. Shutiva noted that the department has developed joint power agreements and memoranda of understanding with tribal entities for road projects. Chapters of the Navajo Nation need to work closely with the central government in order to obtain funding for road projects. Representative Lundstrom noted that tribal governments participate fully in transportation planning.

The BIA was represented by Tim Deasis, deputy regional director for the Navajo Regional Office, and Irvin Bekis, Transportation Division manager, Navajo Regional Office. Mr. Deasis noted that the role of the BIA is complicated by the fact that tribal entities have differing needs and priorities. The Navajo Regional Office receives only \$6 million annually for the maintenance and improvement of roads on the entire Navajo reservation. Mr. Bekis commented on the status of efforts to construct Navajo Route 55 through to Interstate 40. One problem stems from trying to get the required right of way from the State Land Office. Fourteen miles of the proposed road are within Indian trust land. The BIA has money earmarked for construction of the road. Mr. Bekis discussed the BIA's role in the maintenance of roads within the Navajo Nation and referred to a handout distributed to the committee. He noted that the Navajo Nation determines how BIA funds are used within the reservation.

The Navajo Nation was represented by Sampson Begay, chair of the Navajo Nation Council's Transportation and Community Development Committee (TCDC), Tony Padilla, chair of the Eastern Agency Road Committee, and Tom Platero, director of the Navajo Nation Department of Transportation. Mr. Begay noted that the TCDC has oversight for all transportation activities for the Navajo Nation. There are approximately 10,000 miles of road in the Navajo Nation, of which 2,500 miles are paved. About two-thirds are BIA roads with one-

third being state and county roads. The Navajo Nation receives its road construction funds from the federal Indian Reservation Roads (IRR) Program. The TCDC has been working to increase the inventory of tribal roads in order to increase federal funding that has decreased during recent years. Mr. Begay stated that the TCDC hopes and expects that U.S. Highway 491 will be improved as originally planned, and he intends to leave negotiations on that issue to those who are looking out for the best interests of the Navajo Nation. Mr. Padilla explained the role of the Eastern Agency Road Committee in prioritizing road projects for the 31 chapters within its area and working with federal, state and tribal entities to get projects underway. One of the main problems in implementing road projects is obtaining the required right of way. Mr. Platero explained the work that the department has done to increase the inventory of roads within the Navajo Nation in order to increase federal IRR funding. He explained the improvements that have been made recently at the Crystal Chapter and indicated the department's intention to hire a project manager to work on projects in New Mexico. The department has hired a consultant to establish road standards to be put into the Navajo Nation Code and there is consideration of making the department a division of the Navajo Nation. President Shirley recently signed an agreement to give the department access to every road on the reservation. This will permit better coordination with the BIA. Mr. Platero explained efforts to increase training and gave an update on plans to build a new departmental complex. He thanked the committee for assistance through the GRIP II bill.

Ms. Chappelle then gave the committee an update on the status of negotiations regarding the planned improvements to U.S. Highway 491. The two remaining points that have not been agreed upon concern the Navajo Nation's contribution to the project and taxation.

Representative Lundstrom moved that the committee write a letter to the commissioner of public lands seeking clarification on the right-of-way issues for the improvement of Navajo Route 55. Senator Lovejoy seconded the motion and it passed without opposition.

Following the workshop on tribal roads, Senator Pinto recessed the meeting at 4:13 p.m.

Tuesday, August 14 — Haak'u Museum, Pueblo of Acoma

The third meeting of the IAC for the 2007 interim was called back into session by Representative Madalena, co-chair, on Tuesday, August 14, 2007, at 10:37 a.m. at the Haak'u Museum in the Pueblo of Acoma. First Lieutenant Governor Gregory Histia gave an introduction, after which committee members, staff and the audience introduced themselves.

Pueblo of Acoma — Status Update

Governor Jason Johnson welcomed the committee to the Pueblo of Acoma. He noted that diabetes is the number one issue for Native Americans. The pueblo currently has only a four-bed dialysis facility; a larger facility is needed. Methamphetamine and alcohol are problems but they will fight the addiction problems of Native Americans. First Lieutenant Governor Histia invited committee members to return to Acoma for the pueblo's feast day on September 2. He then requested continued support from the state through the Tribal

Infrastructure Fund, capital outlay appropriations and gaming compact negotiations. The pueblo is involved in a number of major projects through 2010. One project is the development of a new intersection at Exit 102 on Interstate 40. GRIP II provided partial funding for a new railroad grade separation bridge. Through the Tribal Infrastructure Fund, the pueblo has received \$750,000 for a wastewater treatment project for commercial development at Exit 102; all funds will be expended by September 30, 2007. The pueblo will apply for further funding for wastewater treatment at the Village of Acomita and the Village of McCarty needs a sewer system. Water is a high priority for the pueblo. In the area of economic development, the pueblo is the largest employer in Cibola County with a total employment of 650, of which 200 are tribal employees. Acoma Steel Manufacturing has a potential for 180 new, high-paying jobs. There is also a potential for 60 new jobs in connection with new commercial development at Exit 85 in Grants. Design work has been completed for an \$18 million community center. A new dialysis center with 24 beds will be under construction by November. The Acoma Boys' and Girls' Club is currently undergoing renovation with a \$250,000 capital outlay appropriation, although \$1 million will be needed to complete the project. The pueblo recently built with its own funds a new public safety facility. Questions from the committee addressed capital outlay priorities, negotiations for a new gaming compact with the state and reconstruction of Exit 102 on Interstate 40.

Representative Begaye moved that the committee write a letter to Henry Gonzales at the DOT requesting information regarding the involvement of the railroad companies in the planning and construction of a new bridge. The motion was seconded by Representative Rodella and passed without opposition.

Native American Health Care Delivery

Ken Lucero, chair of the All Indian Pueblo Council (AIPC), and Ohkay Owingeh Governor Joe Garcia, AICP vice chair, addressed the committee and invited Dr. Tassie Parker, vice president of the board of First Nations Health Source, an Albuquerque clinic serving a predominantly Native American caseload, to join them.

Governor Garcia noted that AIPC has existed since 1598 and came into being to protect and preserve mutual interests of the pueblos. The governor noted that pueblo people comprise 3.5% of the New Mexico population and have a land base of 3,485 square miles. National health expenditures average approximately \$6,100, and federal prisoners average approximately \$3,242 in health care costs. However, the federal government contributes on average a total of \$2,130 for pueblo citizens. The Albuquerque Indian Health Service average expense for Native American clients was \$1,473.

Mr. Lucero said that pueblo governors question the depth and strength of the state's commitment to health care for native people. While the 2003 tribal consultation agreement required agencies to consult with tribes, such consultation has not happened in the state's consideration of a new universal health care plan. The AIPC endorses the concept of the Indian Health Care Improvement Act, which was introduced as HB 784 during the 2007 session. Among the provisions of the act are creation of a council of state, tribal and off-reservation Native Americans; establishment of the Native American Division of Health; changing the

currently short-term, at-will tribal liaison positions at the Department of Health to permanent staffing; and establishing a Tribal Health Care Improvement Fund. Health Secretary Dr. Alfredo Vigil supports the legislation.

Dr. Parker, a Seneca tribal member who went to the University of New Mexico at age 41, got her nursing degree in Gallup and then received her doctorate in medical sociology in 2001, said that First Nations serves 3,000 American Indian clients and many other minority communities. The clinic incorporates traditional as well as more western healing methods in its services and provides one day per week of mental health and substance abuse services. Dr. Parker has just completed a research project at the Youth Diagnostic and Development Center (YDDC) on the needs of Native American children. The doctor stressed that Native American children need prevention programs, and noted that 60% of the homeless persons in Albuquerque are Native American.

First Nations does not have a contract with ValuOptions, the state behavioral health provider, for behavioral health services. Representative Lundstrom moved and Senator Lovejoy seconded a motion to request information and a presentation from ValuOptions on services in Native American communities. The motion passed unanimously.

Discussion returned to the Indian Health Care Improvement Act and strategies for sponsorship and moving the bill through the next session. Senator Lovejoy moved and Representative Lundstrom seconded a motion requesting clarification of substantive issues prior to presenting the bill to the November IAC meeting. The motion passed unanimously. Among the issues to be worked out prior to the next session are the act's scheme for financing, fairness and equity in the makeup of urban representation on the health council, and the ability of the secretary of health to vote within the council. Committee members and presenters agreed that an unfunded mandate was of no practical use, so the bill's sponsors will be insistent that adequate funds be appropriated as the bill moves through the chambers.

Representative Vaughn quizzed Governor Garcia on services for veterans, the AIPC's position on the Indian Health Care Improvement Act and the AIPC's position on the state's universal coverage discussions. Mr. Lucero said the AIPC had no consultation on the universal coverage proposals and therefore made no recommendation, although AIPC advocates some type of reform.

Transportation and Highway Issues

Representative Begaye referred to the discussions the committee had at the Alamo Chapter regarding transportation issues and moved that the committee write a letter to Navajo Nation President Joe Shirley, Jr., regarding the U.S. Highway 491 project. The letter should refer to anticipated cuts in federal funding for the DOT that will jeopardize that project if there are further delays in beginning construction. The letter should advise President Shirley that if there is not a final agreement by November 20, 2007 between the state and the Navajo Nation regarding all aspects of that project, the committee will support legislation during the 2008

legislative session to reauthorize funds slated for the U.S. Highway 491 project to other road projects affecting the Navajo Nation. It is the fear of the committee that if those funds are not committed to projects that can commence construction immediately, there is a chance that the funds will be lost completely due to the underfunding of GRIP I projects. The motion was seconded by Senator Lovejoy and passed without objection.

Senator Lovejoy moved that the committee write a letter to President Shirley to encourage the Navajo Nation to do what it can to expedite the completion of improvements to Navajo Route 55 from the Alamo Chapter to Interstate 40. Representative Lundstrom seconded the motion and it passed without objection.

Resumption of Uranium Mining

Milton Head, a resident of Grants representing the Bluewater Valley Downstream Alliance, addressed the committee regarding concerns about contamination resulting from past uranium mining and milling activities. He gave the background of uranium mining and milling activities that resulted in the contamination of ground water aquifers. The problem was first identified in 1961 and, following the filing of a lawsuit by citizens affected by the polluted water, efforts were started to clean up the contamination. At this point, four aquifers have been contaminated, including three aquifers in the Chinle shale; residents in the area of the former Homestake mill have lost the use of their water wells. There is concern that the San Andres Aquifer, the source of water for Milan and Grants, will also become contaminated. The alliance believes that contamination from past uranium mining and milling activities must be completely remediated before consideration is given to new mining and milling activities. Furthermore, new regulations should be put into place to prevent a reoccurrence of contamination if mining and milling activities are resumed. Every potentially contaminated site should be evaluated individually and blanket environmental impact statements by the Nuclear Regulatory Commission for in situ mining proposals should not be permitted.

Laura Watchempino, water quality specialist with the Haaku Water Office, Pueblo of Acoma, briefed the committee on the concerns of the pueblo regarding the proposed resumption of uranium mining and milling activities. Mt. Taylor to the north is a sacred site and a central feature to the Acoma culture. Proposals to drill 25 exploratory drill holes to a depth of 2,000 feet have the potential to puncture and contaminate aquifers and should not be viewed as having minimal impact. Furthermore, the drilling is a desecration of sacred ground. Waterways will permit contaminants to flow downstream into Acoma; Bluewater Lake is already polluted. No mining technology can adequately protect the aquifers that are the sources of drinking water. The entire area around Mt. Taylor should be declared as unsuitable for uranium mining; Section 106 of the National Historic Preservation Act requires that the pueblo be consulted regarding further mining proposals in the Mt. Taylor area. Acoma has a history of people suffering from the effects of uranium; many have died from cancer. The University of New Mexico is undertaking a health study, the preliminary results of which show a link between uranium mining and kidney disease. The revival of farming in Acoma is dependent upon good water. Jimmie Torvio with the Acoma Water Rights Commission agreed that the proposals for new mines in the area of Mt. Taylor would be an invasion of sacred lands. He noted that there are already

restrictions on what crops irrigated water can be used for: alfalfa and oats, not crops that will be directly consumed by humans. Augustine Seymour, also with the Acoma Water Rights Commission, noted he was a former uranium worker and has suffered from cancer. He expressed concern about the ongoing pollution resulting from lands contaminated by past uranium mining and milling activities. Governor Johnson said that uranium mining has affected and will affect ground water, surface water and cultural issues. As a former miner, he indicated that people must learn from past mistakes related to uranium mining and milling. Water is the source of life and must be protected.

Representative Lundstrom moved that the committee request that the New Mexico Department of Environment study the potential of establishing a "Superfund" district in an area that would include Ambrosia Lake and advise the committee of the consequences of establishing such a district. The motion was seconded by Senator Ulibarri and passed without objection. In a response to a question from Representative Salazar, Derrith Watchman-Moore from the Department of Environment stated that the department does not take a position regarding the drilling of exploratory holes for uranium. The department works with the Energy, Minerals and Natural Resources Department when a mine is opened to ensure there is a closure plan that adequately addresses ground water protection. Concern was expressed regarding the process used by the Energy, Minerals and Natural Resources Department to permit exploratory drilling (no public hearings are required) and the degree of financial accountability required when new mines are opened. Senator Lovejoy moved that the committee staff request that the Department of Environment and the Energy, Minerals and Natural Resources Department review the solutions and prevention measures suggested by the Bluewater Valley Downstream Alliance and advise the committee regarding the merits of those suggestions and which of those suggestions can be implemented administratively and which would have to be implemented through legislation. The motion was seconded by Representative Madalena and passed without objection.

Native American Culture and Tourism Development

Travis Suazo, tourism development director/Indian tourism program manager, Tourism Department, presented a PowerPoint presentation regarding the state's Indian Tourism Program. In FY06, visitor spending in New Mexico exceeded \$5 billion, creating approximately 80,000 jobs and a payroll of almost \$1 billion. Tourism resulted in \$323 million in state tax revenue, \$34 million in lodger's tax revenues and \$78 million in local tax revenues. The department's Indian Tourism Program assists the state's Native American tribes, nations and pueblos in developing and promoting Indian tourism to the degree and in the manner desired by individual tribal governments and organizations. The program also provides assistance to tribes and Indian organizations in tourism product development, promotion and outreach, and in ensuring equitable Native American representation in the tourism industry. Mr. Suazo discussed the importance of Native American culture to the state's tourism industry and the Native New Mexico guide that will be released in print and on-line later this year. Randy Howarth, operations manager for the Sky City Cultural Center and the Haak'u Museum, briefed the committee on the background of tourism at the Pueblo of Acoma and the development of the Sky City Cultural Center and the Haak'u Museum. He expressed appreciation to the committee for

the \$200,000 capital outlay appropriation that provided for the vendor booths outside the museum.

Following the presentation on Native American culture and tourism development, Representative Madalena recessed the meeting at 3:50 p.m. so that committee members and staff could participate in a tour of Sky City.

Wednesday, August 15 — Tohajiilee Chapter, Navajo Nation

The third meeting of the IAC for the 2007 interim was called back into session by Senator Pinto, co-chair, on Wednesday, August 15, 2007, at 9:44 a.m. at the chapter house of the Tohajiilee Chapter. after which committee members, staff and the audience introduced themselves.

Tohajiilee Chapter, Navajo Nation — Status Update

Chapter President Tony Secatero gave an introduction and Lee Annie Willie, chapter secretary-treasurer, gave an invocation. Juana Platero, who is the reigning Miss Tohajiilee, introduced herself and spoke about her experiences as the local high school princess. Chapter Vice President Mark Begay gave the committee an extensive review of the history of the chapter and the Cañoncito Band of the Navajo Nation. The name of the chapter was changed in 2001 from Cañoncito to Tohajiilee, which means "lifting up water by rope in container". The chapter strives to provide for its families' basic needs: decent shelter, running water and electricity. The chapter is currently involved with the City of Albuquerque in a massive project to bring domestic water to Tohajiilee. Other capital outlay needs include a new tribal administrative service center, improvements to Navajo Routes 73, 56 and 57, a new child care facility, paving the clinic parking lot, a new youth multipurpose building, bathroom additions, heavy equipment, wastewater drain fields, a police substation and detention center. Vice President Begay also commented upon the impact of education and the No Child Left Behind Act Program (NCLB), the Headstart Program and housing. Leo Lopez commented upon the unique status of the Tohajiilee Chapter within the Navajo Nation. He also noted that all 21 of the graduating seniors in the chapter passed the state qualifying exam. Commander Larry Alonzo of the U.S. Public Health Service briefed the committee on the status of the new Cañoncito Health Clinic, which has been fully completed and is operational. Keri Jojola, a counselor at the community school, commented upon the impact and shortcomings of the NCLB Program. Harrison Platero with the Tohajiilee Health Board commented upon the status of school-based health care. Sarah Bitsui discussed efforts the chapter is making in dealing with addiction and mental health issues. Norbert Sanchez briefed the committee on what the chapter is doing to treat the 250 chapter members with diabetes and stressed the critical state of funding as that program is in the final year of its grant.

In the course of questions and discussion by committee members, Senator Lovejoy moved that the secretary of Indian affairs report to the committee at its next meeting regarding the status of direct funding to the Ramah, Alamo and Tohajiilee chapters of the Navajo Nation. The motion was seconded by Senator Pinto and passed without objection. Representative

Madalena moved that the committee send a letter to the state's congressional delegation urging support for the reauthorization of and funding for programs addressing diabetes. The motion was seconded by Representative Vaughn and passed without objection.

Native American Voting Rights

Secretary of State Mary Herrera introduced herself and members of her staff to the committee. Donna Begaye is a member of the Navajo Nation and was recently hired to work out of Crownpoint to assist the McKinley and Cibola county clerks to increase voter registration, training and election turnout. Martin Aguilar has been with the Office of the Secretary of State for several years and works with voting coordinators throughout the state to get ready for the 2008 primary and general elections. Daniel Ivey-Soto is the deputy secretary of state in charge of election, ethics and legal issues. Mr. Ivey-Soto discussed what the office is doing to implement the provisions of House Bill 1140 from the 2007 legislative session providing for alternative early voting locations on tribal lands, including mobile voting sites; proposed rules on this subject are presently being prepared. In locations with limited resources, provisions may be made for absentee ballot repositories. Mr. Aguilar described the efforts he has been making to prepare for the 2008 elections. One focus is on increasing access for Native American voters through precinct development. Eileen Martinez, Cibola County Clerk, explained what her office has been doing to avoid the problems experienced in the 2004 elections. She has had a problem in getting suggested names for Native American voting coordinators for tribal entities within Cibola County, and explained that budgetary constraints adversely affect her office's efforts to assist Native American voters. Secretary Herrera emphasized that her office is committed to increasing Native American voter registration and turnout but that there is a need for \$250,000 to enable compliance with the federal Minority Language Requirement Act. Upon questions from the committee, there was extensive discussion regarding additional financial appropriations to the Office of the Secretary of State, early voting sites and the proposed rules expected to be promulgated by October 1.

Adjournment

There being no further business before the committee, the third meeting of the IAC for the 2007 interim adjourned at 1:55 p.m.